

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-505

October 27, 2004

PUBLIC UTILITIES COMMISSION
Amendment to Eligible Resource
Portfolio Requirement (Chapter 311)

ORDER ADOPTING AMENDED
RULE AND STATEMENT OF
FACTUAL AND POLICY BASIS

WELCH, Chairman; DIAMOND, and REISHUS, Commissioners

I. SUMMARY

Through this Order, we amend our eligible resource portfolio requirement rule (Chapter 311). The purpose of the amendment is to make the rule consistent with recently enacted legislation that exempts service to qualified Pine Tree Development Zone businesses from the portfolio requirement.

II. BACKGROUND AND RULEMAKING PROCESS

During its last session, the Maine Legislature enacted An Act to Enhance Pine Tree Development Zones. P.L. 2003, ch. 610. Section 2 of the Act (codified at 35-A M.R.S.A. § 3210-B(4)) exempts electricity sales to qualified Pine Tree Zone businesses from the State's eligible resource portfolio requirement (35-A M.R.S.A. § 3210). The provision states:

Electricity sales. Notwithstanding section 3210, the sale of electricity by a competitive electricity provider to a qualified Pine Tree Development Zone business established under Title 30-A is exempt from the requirements of that section and, at the request of the competitive electricity provider, sales to qualified Pine Tree Development Zone businesses must be excluded from any calculation by the commission to determine compliance with that section.

On August 3, 2004, we issued a Notice of Rulemaking, proposing to amend the eligible resource portfolio requirement rule to make it consistent with the legislation. Consistent with rulemaking procedures, we provided interested persons with an opportunity to comment on the proposed rule. The Commission received no comments on the rulemaking.

III. RULE AMENDMENT

The amended rule adds a new section 6 that explicitly exempts competitive electricity providers from the portfolio requirement with respect to sales to qualified Pine Tree Zone businesses. As required by the legislation, the amended rule states that the

section will be repealed by operation of statute on December 31, 2009. The Commission did not receive comments on the proposed addition to the rule and the language is adopted unchanged from the proposed rule.

Accordingly, we

ORDER

1. That the attached amendment to Chapter 311, Eligible Resource Portfolio Requirement, is hereby adopted;
2. That the Administrative Director shall file the adopted rule and related materials with the Secretary of State; and
3. That the Administrative Director shall notify the following of the final adoption of the attached rule:
 - a. All electric utilities in the state;
 - b. All persons who have filed with the Commission within the past year a written request for Notice of rulemaking; and
 - c. All licensed competitive electricity providers.

Dated at Augusta, Maine, and this day of October, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.